

AO 241 (Rev. 5/85)

PETITION UNDER 28 USC § 2254 FOR WRIT OF  
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

<b>United States District Court</b>		District <b>DISTRICT COURT FOR MASSACHUSET</b>
Name <b>Stephen John Casey, Sr.</b>	Prisoner No. <b>W-67232</b>	Case No.
Place of Confinement <b>NORTH CENTRAL CORRECTIONAL INSTITUTE, Gardner, MA. 01440</b>		
Name of Petitioner (include name under which convicted) <b>Steven Casey</b>		Name of Respondent (authorized person having custody of petitioner) <b>Steven O'Brien, Superintendent</b>
v. <b>04-11940 PBS</b>		
The Attorney General of the State of: <b>Massachusetts...ATT. Thomas F. Reilly</b>		

**PETITION**MAGISTRATE JUDGE LLA

1. Name and location of court which entered the judgment of conviction under attack \_\_\_\_\_  
**New Bedford Superior Court, 441 County St., New Bedford, MA.**

2. Date of judgment of conviction **October 16, 1998**

3. Length of sentence **four to six years , followed by five years probation**

4. Nature of offense involved (all counts) **2/ Rape of a Child and indecent assault and battery**  
**4/ INDICENT A/B under 14**

5. What was your plea? (Check one)

- (a) Not guilty ☒  
(b) Guilty ☐  
(c) Nolo contendere ☐

If you entered a guilty plea to one count or indictment, and a not guilty plea to another count or indictment, give details:

**Had trial in one county (Bristol), and plea guilty in county**

**#2 (Plymouth)...same accuser, Judge, and Attorney. Charges were during same time frame.**

6. If you pleaded not guilty, what kind of trial did you have? (Check one)

- (a) Jury ☒ **(Bristol) New Bedford Superior Court**  
(b) Judge only ☐

7. Did you testify at the trial?

Yes ☐ No ☒

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

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9. If you did appeal, answer the following:

(a) Name of court Superior Court, Bristol County - New Bedford

(b) Result Granted Evidentiary Hearing: new trial, Commonwealth

Appealed that decision... April 17, 2003

(c) Date of result and citation, if known

(d) Grounds raised Alternate juror in jury room, State witness influence jurors, Defense Attorney's failure to investigate, ineffective

(e) If you sought further review of the decision on appeal by a higher state court, please answer the following:

(1) Name of court Supreme Judicial Court of Massachusetts

(2) Result Order allowing a new trial was vacated.  
2nd County appeal denied.

(3) Date of result and citation, if known June 3, 2004..442 Mass. 1 (2004)

(4) Grounds raised Alternate Juror, conduct of witness, ineffective assistance,

(f) If you filed a petition for certiorari in the United States Supreme Court, please answer the following with respect to each direct appeal:

(1) Name of court \_\_\_\_\_

(2) Result \_\_\_\_\_

(3) Date of result and citation, if known \_\_\_\_\_

(4) Grounds raised \_\_\_\_\_

10. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions with respect to this judgment in any court, state or federal?

Yes ☐ No ☒ see question #9

11. If your answer to 10 was "yes," give the following information:

(a) (1) Name of court Above See Question #9

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

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- (4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☒ No ☐

(5) Result I was Granted a new trial on 1st County, denied on  
on 2nd County..Comm. appealed ,and I appealed denial.  
(6) Date of result April 2003

- (b) As to any second petition, application or motion give the same information:

(1) Name of court \_\_\_\_\_

(2) Nature of proceeding \_\_\_\_\_

(3) Grounds raised \_\_\_\_\_

- (4) Did you receive an evidentiary hearing on your petition, application or motion?  
Yes ☐ No ☐

(5) Result \_\_\_\_\_

(6) Date of result \_\_\_\_\_

- (c) Did you appeal to the highest state court having jurisdiction the result of action taken on any petition, application or motion?

(1) First petition, etc. Yes ☒ No ☐ S.J.C. took case on it's own in-  
(2) Second petition, etc. Yes ☐ No ☐ initiative from Mass. Appeals Court

- (d) If you did *not* appeal from the adverse action on any petition, application or motion, explain briefly why you did not:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

12. State *concisely* every ground on which you claim that you are being held unlawfully. Summarize *briefly* the *facts* supporting each ground. If necessary, you may attach pages stating additional grounds and *facts* supporting same.

CAUTION: In order to proceed in the federal court, you must ordinarily first exhaust your available state court remedies as to each ground on which you request action by the federal court. If you fail to set forth all grounds in this petition, you may be barred from presenting additional grounds at a later date.

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For your information, the following is a list of the most frequently raised grounds for relief in habeas corpus proceedings. Each statement preceded by a letter constitutes a separate ground for possible relief. You may raise any grounds which you may have other than those listed if you have exhausted your state court remedies with respect to them. However, *you should raise in this petition all available grounds* (relating to this conviction) on which you base your allegations that you are being held in custody unlawfully.

Do not check any of these listed grounds. If you select one or more of these grounds for relief, you must allege facts. The petition will be returned to you if you merely check (a) through (j) or any one of these grounds.

- (a) Conviction obtained by plea of guilty which was unlawfully induced or not made voluntarily with understanding of the nature of the charge and the consequences of the plea.
- (b) Conviction obtained by use of coerced confession.
- (c) Conviction obtained by use of evidence gained pursuant to an unconstitutional search and seizure.
- (d) Conviction obtained by use of evidence obtained pursuant to an unlawful arrest.
- (e) Conviction obtained by a violation of the privilege against self-incrimination.
- (f) Conviction obtained by the unconstitutional failure of the prosecution to disclose to the defendant evidence favorable to the defendant.
- (g) Conviction obtained by a violation of the protection against double jeopardy.
- (h) Conviction obtained by action of a grand or petit jury which was unconstitutionally selected and impaneled.
- (i) Denial of effective assistance of counsel.
- (j) Denial of right of appeal.

A. Ground one: (i) Denial of effective assistance of Counsel

Supporting FACTS (state *briefly* without citing cases or law) State's main witness made statements under oath at proable cause hearing, then denied making said statements at trial. My defense was not able to to be planned whereas story was changed and witness allowed to perjure his testimony.

B. Ground two: (a) unlawfully induced plea

2nd County plea was obtained with same alleged victim, same judge, same defense counsel, while first trial was on appeal  
 Supporting FACTS (state *briefly* without citing cases or law): The District Attorney threatened 9 to 15 years on and after, the witness to be used had already perjured himself during 1st County trial which I was convicted and appealed. This was double jeopardy and unconstitutional as applied, I couldn't have a fair defense under these conditions.

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C. Ground three: Supreme Judicial Court Shaded facts in there ruling  
to imply truths that were not in the record

Supporting FACTS (state *briefly* without citing cases or law): "Background" S.J.C. states  
"victim testified that defendant began abusing him when (He)  
was six years old," They leave out victim's testimony under  
oath that (HE) states abuse began when (he) was nine, then  
when he was tweleve...and stated that was the only time. My  
defense was then based on that testimony, which (he) changed  
when he perjured himself, and this was allowed.

D. Ground four Ineffective Assistance of Counsel..Collateral legal  
Consequence Doctrine- Massachusetts, amended registration and  
commitment laws after my plea..unconstitutionally as applied.

Supporting FACTS (state *briefly* without citing cases or law):  
original statue was found to be constitutional as applied,  
the state legislators then amended the laws, after I was sen-  
tenced. Legal consequence thereby changed EXFACTO SHOULD APPLY.  
and Constitutionallity should be re-evaluated.

See reverse -

13. If any of the grounds listed in 12A, B, C, and D were not previously presented in any other court, state or federal, state *briefly* what grounds were not so presented, and give your reasons for not presenting them:

(D) Legislatives acts change circumstances affecting  
punishment after sentence

14. Do you have any petition or appeal now pending in any court, either state or federal, as to the judgment under attack?  
 Yes ☐ No ☒

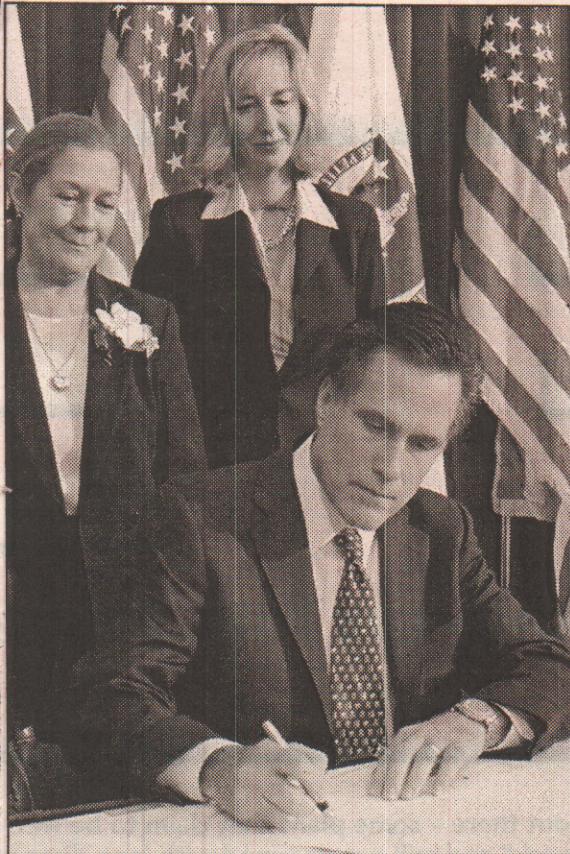
15. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:

(a) At preliminary hearing Attorney Antone Cruz, 26 seventh St. New Bedford

(b) At arraignment and plea Above Same in both County's



Herald - April 8, 04



AP PHOTO

**GET TOUGH:** Alexandra Zapp's mom, Andrea Casanova, left, and Lt. Gov. Kerry Healey watch as Gov. Mitt Romney signs into law the 'Ally Zapp' bill yesterday.

## Sex offenders face life terms under new law

By ELISABETH J. BEARDSLEY

The state's most dangerous sex offenders can now be held beyond their prison sentences and locked up for life, under a new law Gov. Mitt Romney inked yesterday.

The law comes in the wake of the 2002 murder of Boston socialite Alexandra Zapp, who was slain at a rest stop by a known sex offender.

"What happened to Alexandra Zapp is every parent's worst nightmare," said sponsor Sen. Marc Pacheco (D-Taunton). "This bill will ensure that sexually dangerous predators remain off the streets." The new law expands the list of offenses that allow the state to civilly commit criminals, and allows prosecutors to argue for commitment due to "totality" of the circumstances, even if the most recent crime wasn't sex-related.

Prosecutors had tried to commit Zapp's killer, Paul Leahy, prior to her murder, but were shot down because his most recent crime had been accosting teenage girls, which was not considered a sex crime.

Andrea Casanova, Zapp's mother, pushed lawmakers relentlessly for the bill. "We've learned from Alexandra to create something positive from a horrible, preventable event," she said. "We've only begun."

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(c) At trial SAME(d) At sentencing SAME(e) On appeal David A.F. Lewis... one Broadway, Cambridge, MA.(f) In any post-conviction proceeding Above (e)

(g) On appeal from any adverse ruling in a post-conviction proceeding

(e) Above

16. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?

Yes ☒ No ☐

17. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?

Yes ☐ No ☒

(a) If so, give name and location of court which imposed sentence to be served in the future:

(b) Give date and length of the above sentence:

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?

Yes ☐ No ☒

Wherefore, petitioner prays that the Court grant petitioner relief to which he may be entitled in this proceeding.

\_\_\_\_\_  
Signature of Attorney (if any)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

September 11, 2004  
(date)Stephen John Conroy, Jr.  
Signature of Petitioner